

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

*****		
gpac, LLP,	*	
	*	CIV 22-4167
	*	
Plaintiff,	*	
	*	
vs.	*	ORDER
	*	
ALEXANDER MAYER and	*	
GREEN KEY RESOURCES LLC,	*	
	*	
Defendants.	*	
	*	
*****		

Defendant on December 6, 2022, made a Motion to Transfer Venue or, in the Alternative, Stay the Litigation, Doc. 6, as Mayer's action in the Middle District of Tennessee was first filed where Mayer lives and does business. However, while that Motion was pending and before this case was transferred to this Judge, the District Court in Tennessee transferred the first-filed Tennessee case to this Court. Accordingly, Defendant's Motion to Transfer Venue or in the Alternative, to Stay the Litigation, Doc.6, is moot and is denied.

Plaintiff made a Motion to Remand to State Court on December 5, 2022. That Motion is based upon Plaintiff's representation that gpac disclaims all damages above \$74,999.00 and claims this Court therefore lacks jurisdiction over the dispute. Among other things, Defendants resist the Motion primarily on the basis that not only does gpac's Complaint request monetary damages up to \$74,999.00, it also requests injunctive relief, attorney fees, and other costs.

DISCUSSION

Even if the Court assumes that attorney fees and costs are included within the \$74,999.00 limitation, that ignores the injunctive relief requested.

During the last full year of employment with gpac, Defendant earned \$109,500.00. During his three years of employment with gpac, Mayer generated at least \$300,000.00 in revenue for gpac.

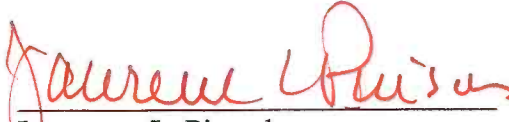
There is no question that diversity exists and the Court concludes the amount in controversy exceeds \$75,000.00. *Kopp v. Kopp*, 280 F.3d 883, 885 (8th Cir. 2002). The totality of the relief requested cannot be ignored. Accordingly,

IT IS ORDERED:

1. That Defendants' Motion to Transfer Venue or in the Alternative, Stay the Litigation, Doc. 6, is denied.
2. That Plaintiff's Motion to Remand to State Court, Doc. 2, is denied.

Dated this 27<sup>th</sup> day of June, 2022.

BY THE COURT:

  
Lawrence L. Piersol  
United States District Judge

ATTEST:  
MATTHEW W. THELEN, CLERK

